

TOWN OF WEARE

PLANNING BOARD

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November 4, 2010 - Meeting Minutes
FINAL COPY

PRESENT: Craig Francisco, Chairman; Frank Bolton, Vice Chairman; Thomas Clow, George Malette, Dani-Jean Stuart, Sheila Savaria, Recording Secretary

GUESTS: Frank Campana

I: CALL TO ORDER:

Chairman Craig Francisco called the meeting to order at 7:05 pm at the Weare Town Office Building.

II: ADMINISTRATIVE ITEMS:

Discussion of changes to Article 3 of the Zoning Ordinance: Frank Bolton sent an email to members of the board regarding Article 3 being implemented in a different manner. Mr. Bolton feels strongly that the Planning Board should take part in decisions made in whole or in part in Article 3 of the zoning regulations. He has not found land use regulations that limit Planning Board involvement to newly subdivided lots. Mr. Bolton read part of his email to the board:

My requests should be apparent; code enforcement, of many zoning regulations, is not an exact science. There is a loophole in our regulations that allows a wide range of activity on existing lots of record that are subject to CEO judgment only. I would like to see new or modified regulations that require joint participation between the requisitioned, the abutters, the P.B., and the CEO before any permits are issued. This would help avoid ZBA hearings and court action. My understanding of the existing process is that administrative appeals to the ZBA call for permits to be issued before an appeal can be filed. This allows ongoing construction throughout the appeal time frame.

Article 3.1.1 - Mr. Bolton asked for definitions or explanation for 'lots of record' and 'accessory use' Chairman Francisco read the definitions aloud:

Accessory Use: Shall mean a building or structure that is incidental and subordinate to the permitted use of the lot and used for purposes customarily associated with the primary use of the lot. Heliports or airports shall not be considered accessory uses to any permitted in any zoning district in the Town of Weare.

Lot of Record: Shall mean land designated as a separate and distinct parcel in existence upon the effective date of this ordinance in a legally recorded deed and/or plot or plan filed in the records of the Hillsborough County Registry of Deeds.

Article 3.2 - Mr. Bolton suggested that the Planning Board modify this regulation to require an abutter notified hearing if performance standards are in question. This would allow the requisitioned, the abutters, the PB, and the CEO to address issues before the permits are issued to help avoid ZBA hearings and court action. Mr. Bolton discussed recent cases that he felt could have been handled more clearly and quickly had they gotten the Planning Boards input. Also, when the Planning Board gets a case, they have the opportunity to bounce ideas off of each other, the CEO doesn't get that chance. Chairman Francisco responded by saying the CEO's hands are tied in making decisions and the application process will take a lot longer if required to go through that process. George Malette said that Chip Meany had brought up at a previous meeting about any new businesses filling out a form with information about the business so he could decide if it was changing enough to require them to appear before the Planning Board. Tom Clow said the CEO should decide if a lot is making a change in use, and perhaps there should be a form to fill out so

there is knowledge of the change of ownership. Dani-Jean Stuart said that would work only if the new business owners realized they had to notify someone of the change. Mr. Clow said that when a business moves from a non-commercial to a commercial venture, that should be what triggers a site plan review. The Planning Board should have some control over the site plan and notifying abutters, not to take away the use as it's zoned for, but to regulate the use.

Article 3.4.1 - Mr. Bolton proposed the following revised article:

This zoning ordinance shall not apply to any existing structures or to any existing use of any building in the Town of Weare, in existence on the date of the adoption of this ordinance. This zoning ordinance shall apply to any new construction or alteration of a building, or living space within a building, which is larger or for a use, a purpose, or in a manner, which is different from the use to which it was put before alteration and shall require notification of abutter and a Planning Board hearing.

Chairman Francisco does not agree that this is the appropriate category to add 'new construction' to the ordinances. Mr. Bolton gave an example of a structure on an existing lot that the owner may want to double in size in the future. If this structure is approved without Planning Board input, it could have a huge impact on the neighbors. He feels there should be a discussion and certain limitations to what the new owner could do. Article 3.4.1 currently only applies to the alteration of an existing building, and Mr. Bolton feels it should include new construction as well. Also, there should be a line drawn for how large the operation can be before it is considered commercial. There should be a record saying what can be done on a new site, a line that can not be crossed, and Mr. Bolton feels that should be addressed by the Planning Board. Mr. Clow feels that changing from a family agricultural use, for example, to a commercial enterprise, that there should be a degree of common sense to where the line is drawn between the two.

Frank Campana: Mr. Campana had a situation with the town where a neighbor proposed a gainful business project to the building inspector, and it was between that person and the building inspector only. If the building inspector issued a permit, Mr. Campana says he presumes it is because all parts of Article 3 were met, and if that can't be produced in writing, then he feels discriminated against. He goes on to question how the Planning Board would know if the performance standards are being met or not. Somehow a new use has to come before the Planning Board so people who potentially will be affected can be informed about a new use. Mr. Campana concluded by asking the board to consider notifying the abutters in all cases, because it may affect them for many years, so they should have a chance to share their input.

Article 3.4.2 - Mr. Bolton proposed the following revised article:

When the use of any non-conforming lots or buildings has been discontinued or destroyed for 2 or more years, a notified Planning Board hearing is required prior to the issuance of building permits or the resumption of use.

Mr. Bolton feels that any building that has been vacant for 2 or more years should require a Planning Board hearing. Mr. Malette suggests a joint meeting with the ZBA to see if they approve. Ms. Stuart suggested adding 'limit enlargement and extension, and reduce them to conformity as completely and rapidly as possible' to the ordinance. Also, 'discontinued' should be defined and added to the definitions. Mr. Clow thinks they should go to the ZBA first for permission to resume use on the property. He is concerned that the Planning Board can't hear everything and they need to trust the CEO to make decisions. Only the big decision should come before the Planning Board. Mr. Bolton said that in certain circumstances, the CEO makes decisions based on whatever information he has, and there are decisions that have been made that the Planning Board would have seriously impacted. He discussed a specific case involving a land dispute and property lines in which he disagreed with Mr. Meany. The town resident who was involved in the case, Mr. Moody, was watching the discussion on the TV and came to the

meeting to express his anger. Mr. Bolton later said he feels everyone is better served if the board is involved in Mr. Meany's decisions. Mr. Bolton said Mr. Meany should have been present and part of the discussion, and that he would like to work with the him to make these regulations work. He offered to discuss the proposed changes with Mr. Meany before the next meeting, but the board felt it may not be appropriate.

The three main issues discussed at tonight's meeting were:

1. Change of use in a commercial established area
2. Change of use from residential to commercial.
3. Plot plan review.

In regards to the Source Water Protection Plan, Mr. Malette said that he looked at the wording of a non-permitted use and performance standards, and he doesn't feel the rights are taken away for people if they are protecting the recharge areas for public water sources. He would like to discuss this at the next meeting. Chairman Francisco said he made the changes to the plan and sent it to Jack Munn, but he hasn't heard back from him yet.

IV: ADJOURNMENT:

As there was no further business to come before the board, Dani-Jean Stuart moved to adjourn the meeting at 9:45pm; George Malette seconded, all voted in favor.

Respectfully submitted,

Sheila Savaria
Recording Secretary